

Introduced by Senator Negrete McLeod

February 18, 2011

An act to amend Section 5063 of the Business and Professions Code, relating to accountants.

LEGISLATIVE COUNSEL'S DIGEST

SB 773, as introduced, Negrete McLeod. Accountants.

Existing law provides for the licensure and regulation of accountants by the California Board of Accountancy in the Department of Consumer Affairs. Existing law requires a licensee to report to the board in writing the occurrence of certain events within 30 days of the time the licensee has knowledge of those events, including any restatement of a financial statement and related disclosures by a client audited by the licensee.

This bill would exempt from the reporting requirement a restatement or related disclosure if included in any report filed and furnished to the Securities and Exchange Commission, or if the restatement or disclosure was made solely due to a change in law, rules and regulations, or standards.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 5063 of the Business and Professions
- 2 Code is amended to read:
- 3 5063. (a) A licensee shall report to the board in writing of the
- 4 occurrence of any of the following events occurring on or after
- 5 January 1, 1997, within 30 days of the date the licensee has
- 6 knowledge of these events:

1 (1) The conviction of the licensee of any of the following:

2 (A) A felony.

3 (B) Any crime related to the qualifications, functions, or duties
4 of a public accountant or certified public accountant, or to acts or
5 activities in the course and scope of the practice of public
6 accountancy.

7 (C) Any crime involving theft, embezzlement, misappropriation
8 of funds or property, breach of a fiduciary responsibility, or the
9 preparation, publication, or dissemination of false, fraudulent, or
10 materially misleading financial statements, reports, or information.

11 As used in this section, a conviction includes the initial plea,
12 verdict, or finding of guilt, pleas of no contest, or a pronouncement
13 of sentence by a trial court even though that conviction may not
14 be final or sentence *is not* actually imposed until *all* appeals are
15 exhausted.

16 (2) The cancellation, revocation, or suspension of a certificate;
17 or other authority to practice, or refusal to renew a certificate or
18 other authority to practice as a certified public accountant or a
19 public accountant, by any other state or foreign country.

20 (3) The cancellation, revocation, or suspension of the right to
21 practice as a certified public accountant or a public accountant
22 before any governmental body or agency.

23 (b) A licensee shall report to the board in writing the occurrence
24 of any of the following events occurring on or after January 1,
25 2003, within 30 days of the date the licensee has knowledge of the
26 events:

27 (1) Any restatement of a financial statement and related
28 disclosures by a client audited by the licensee *that is not included*
29 *in any report filed and furnished to the Securities and Exchange*
30 *Commission, or that is not solely due to a change in law, rules*
31 *and regulations, or standards.*

32 (2) Any civil action settlement or arbitration award against the
33 licensee relating to the practice of public accountancy where the
34 amount or value of the settlement or arbitration award is thirty
35 thousand dollars (\$30,000) or greater and where the licensee is not
36 insured for the full amount of the award.

37 (3) Any notice of the opening or initiation of a formal
38 investigation of the licensee by the Securities and Exchange
39 Commission or its designee.

1 (4) Any notice from the Securities and Exchange Commission
2 to a licensee requesting a Wells Submission.

3 (5) Any notice of the opening or initiation of an investigation
4 by the Public Company Accounting Oversight Board or its
5 designee, as defined pursuant to subdivision (g).

6 (c) A licensee shall report to the board in writing, within 30
7 days of the entry of the judgment, any judgment entered on or after
8 January 1, 2003, against the licensee in any civil action alleging
9 any of the following:

10 (1) Dishonesty, fraud, gross negligence, or negligence.

11 (2) Breach of fiduciary responsibility.

12 (3) Preparation, publication, or dissemination of false,
13 fraudulent, or materially misleading financial statements, reports,
14 or information.

15 (4) Embezzlement, theft, misappropriation of funds or property,
16 or obtaining money, property, or other valuable consideration by
17 fraudulent means or false pretenses, or other errors or omissions.

18 (5) Any actionable conduct by the licensee in the practice of
19 public accountancy, the performance of bookkeeping operations,
20 or other professional practice.

21 (d) The report required by subdivisions (a), (b), and (c) shall be
22 signed by the licensee and set forth the facts ~~which~~ *that* constitute
23 the reportable event. If the reportable event involves the action of
24 an administrative agency or court, then the report shall set forth
25 the title of the matter, court or agency name, docket number, and
26 dates of occurrence of the reportable event.

27 (e) A licensee shall promptly respond to oral or written inquiries
28 from the board concerning the reportable events, including inquiries
29 made by the board in conjunction with license renewal.

30 (f) Nothing in this section shall impose a duty upon any licensee
31 to report to the board the occurrence of any of the events set forth
32 in subdivision (a), (b), or (c) either by or against any other licensee.

33 (g) The board may adopt regulations to further define the
34 reporting requirements of this section.